

## OFFICIAL COPY

Fresno, California

June 21, 2005

The City Council met in regular session at the hour of 8:30 a.m. in the Council Chamber, City Hall, on the day above written.

Present:	Tom Boyajian	Councilmember
	Brian Calhoun	Councilmember
	Jerry Duncan	Acting Council President
	Henry Perea	Councilmember
	Cynthia Sterling	Councilmember
	Larry Westerlund	Councilmember
	Mike Dages	Council President

Andy Souza, City Manager  
 Jon Ruiz, Assistant City Manager  
 Hilda Cantu Montoy, City Attorney  
 Becky Klisch, City Clerk  
 Yolanda Salazar, Assistant City Clerk

Reverend Steve Ratzlaff, Mennonite Community Church, gave the invocation, and President Dages led the Pledge of Allegiance to the Flag.

President Dages noted he received a call from a citizen wishing to speak under *public comment/oral communications* which he advised was scheduled for 9:00 a.m., advised he since learned there would be a group of people coming in at that time to speak on the independent police auditor budget matter thinking this was the hearing, and upon his question City Attorney Montoy advised the people could speak at 9:00 a.m. and their comments would be incorporated into the 2:30 p.m budget hearing *or* they could speak at 2:30 p.m. during the actual budget hearing. Councilmember Boyajian later added that people were unclear as to when they could speak as department budget schedules have been changed so many times, with Ms. Montoy clarifying each agenda has shown when the budget hearing will be held and people can come and speak to any budget issue at any of those hearings.

**APPROVE MINUTES OF JUNE 13, 14 AND 16, 2005:**

On motion of Councilmember Westerlund, seconded by Councilmember Sterling, duly carried, RESOLVED, the minutes of June 13, 14 and 16, 2005, approved as submitted.

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**COUNCIL MEMBER REPORTS AND COMMENTS:**

DIRECT CITY CLERK TO RESCHEDULE HIS CHARTER AMENDMENT ITEM HEARD LAST WEEK RELATIVE TO REPEALING CHARTER SECTION 1504 ON THE JUNE 28, 2005, COUNCIL AGENDA UNDER CITY COUNCIL - COUNCILMEMBER DUNCAN

Direction made.

REQUEST FOR STATUS ON DISCUSSIONS WITH BNSF ON THE OPENING OF NEW SANTA FE DEPOT STATION - COUNCILMEMBER CALHOUN

Upon question, Assistant City Manager Ruiz advised a conference call with Congressman Costa and Amtrak would be held on June 29<sup>th</sup> to address cost details, and upon Councilmember Calhoun's request Mr. Ruiz stated staff would provide an update report at the next Council meeting after June 29<sup>th</sup>. Councilmember Boyajian later added some kind of a contingency needed to be included in the budget so the depot could open as this matter was of great importance to a lot of people.

REQUEST FOR AN OPINION FROM THE CITY ATTORNEY ON THE ISSUE OF IN-LIEU FEES FOR FISCAL 2005 (VERSUS 2006) - COUNCILMEMBER CALHOUN

Request made with City Attorney Montoy recommending the matter be addressed at the 2:30 p.m. budget hearing.

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6/21/05

COMMENDATION TO FRESNO POLICE OFFICERS' ASSOCIATION FOR THEIR CONTRIBUTIONS TO THE SUCCESSFUL QUIGLEY PARK ICE CREAM EVENT - COUNCILMEMBER BOYAJIAN

Commended made.

COMMENDATION TO FRESNO POLICE OFFICERS' ASSOCIATION FOR THE SUCCESSFUL CENTRAL POLICING AND JUNETEENTH EVENTS - COUNCILMEMBER STERLING

Commendations made.

REQUEST THE PUBLIC AFFAIRS OFFICER TO CONTACT CHANNEL 26 TO CORRECT A NEWS STORY REPORT THAT STATED FRESNO CITIZENS WOULD HAVE A \$5.00 UTILITY RATE INCREASE WHICH WAS INCORRECT - PRESIDENT DAGES

Request made with Assistant City Manager Ruiz confirming there would be no rate increase and Public Affairs Officer Shockley adding he would contact Channel 26.

REQUEST STAFF TO ASK THE DEVELOPER TO INSTALL TRAFFIC SIGNALS AT CLOVIS AND CALIFORNIA AVENUES - PRESIDENT DAGES

Request made.

COMMENDATION TO STAFF FOR ALLEY CLEAN-UP IN THE 4000 BLOCK OF E. VERUE AND FOR THEIR QUICK RESPONSE - PRESIDENT DAGES

Commendation made.

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#### **APPROVE AGENDA:**

**(1-C)** AWARD A REQUIREMENTS CONTRACT TO WEST COAST ARBORISTS, INC. FOR MAINTENANCE OF THE STREET TREE COMPONENT OF THE MUNICIPAL FOREST (REBID)

City Clerk Klisch advised staff was removing the item from the agenda and after the following matter additional discussion and action was taken on the item.

**(1-I)** CONSIDER MATTERS AND ADOPT SIX (6) RESOLUTIONS PERTAINING TO CFD NO. 2005-1 - THE RUNNING HORSE DEVELOPMENT PROJECT

City Clerk Klisch advised the staff report incorrectly listed the hearing date as July 19<sup>th</sup> and clarified the correct hearing date was July 26<sup>th</sup>. So noted and corrected.

**(1-C)** AWARD A REQUIREMENTS CONTRACT TO WEST COAST ARBORISTS, INC. FOR MAINTENANCE OF THE STREET TREE COMPONENT OF THE MUNICIPAL FOREST (REBID) (*Continued from earlier*)

Councilmember Calhoun questioned if the tree-trimming program was in jeopardy and what the implications were of removing the item from the agenda just because of a potential \$50,000 cut. City Attorney Montoy advised it was permissible for staff to remove the item but clarified Council had the authority to keep the matter on the agenda for discussion, whereupon a motion and second was made to keep Item 1-C on the agenda.

Assistant City Manager Ruiz stated staff wanted the item removed because the tree-trimming contract was part of the in-lieu contingency plan., noted the contract amount was reflective of the dollar amount prior to the discussion of in-lieu and creation of the contingency plan that was submitted yesterday, and added staff wanted to come back with a version that reflected the contingency plan.

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Upon question of Councilmember Duncan, Public Works Director Healy and Mr. Ruiz stated a one week delay would not interrupt the schedule as the contract was for the new fiscal year and confirmed the issue of deciding whether or not to use the tree-trimming reduction as part of the budget reduction could be addressed next week. Councilmember Duncan stated there was no reason to discuss the matter this date and stated request to delay was reasonable and asked Council to let staff do their job. Councilmember Calhoun stated he still felt the matter should at least be discussed, urged support for the motion, and stated an assumption was being made that on short notice Council was going to approve the Mayor's proposal to "chop" \$50,000. Councilmember Boyajian questioned and spoke briefly to West Coast Arborist's two proposals, President Dages stated discussion never hurt and he would support the motion, and Councilmember Westerlund requested staff be prepared to speak to the level of services contemplated with the contract as currently proposed.

On motion of Councilmember Calhoun, seconded by Councilmember Boyajian, duly carried, RESOLVED, Item **1-C** retained on the agenda, by the following vote:

Ayes : Boyajian, Calhoun, Perea, Sterling, Westerlund, Dages  
 Noes : Duncan  
 Absent : None

**(10:20 A.M.)** HEARING REGARDING CHANGE OF SERVICES FOR TRACT NO. 5258, ANNEXATION NO. 81, CFD NO. 2  
(CONTINUE TO JUNE 28, 2005, AT 10:20 A.M.)

**(10:25 A.M.)** HEARING REGARDING CHANGE OF SERVICES FOR TRACT NO. 5295, ANNEXATION NO. 82, CFD NO. 2  
(CONTINUE TO JUNE 28, 2005, AT 10:25 A.M.)

**(10:30 A.M.)** HEARING REGARDING CHANGE OF SERVICES FOR TRACT NO. 5237, ANNEXATION NO. 83, CFD NO. 2  
(CONTINUE TO JUNE 28, 2005, AT 10:30 A.M.)

**(10:35 A.M.)** HEARING REGARDING CHANGE OF SERVICES FOR TRACT NO. 4983, ANNEXATION NO. 31, CFD NO. 2  
(CONTINUE TO JUNE 28, 2005, AT 10:35 A.M.)

**(10:40 A.M.)** HEARING REGARDING CHANGE OF SERVICES FOR TRACT NO. 4598, ANNEXATION NO. 86, CFD NO. 2  
(CONTINUE TO JUNE 28, 2005, AT 10:40 A.M.)

The above hearings continued as noted.

On motion of Councilmember Westerlund, seconded by Councilmember Sterling, duly carried, RESOLVED, the **AGENDA** hereby approved, by the following vote:

Ayes : Boyajian, Calhoun, Duncan, Perea, Sterling, Westerlund, Dages  
 Noes : None  
 Absent : None

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#### **ADOPT CONSENT CALENDAR:**

Barbara Hunt, 2475 S. Walnut, spoke in support of Item **1-F**.

Councilmember Calhoun pulled Items **1-C** and **1-J** from the consent calendar for discussion at 2:00 p.m.

**(1-A)** REMOVED FROM THE AGENDA

**(1-B)** REJECT THE THREE BIDS RECEIVED FOR THE CONSTRUCTION OF INFRASTRUCTURE FOR A TRAFFIC SIGNAL SYNCHRONIZATION SYSTEM PHASE III PROJECT BECAUSE THE BIDS RECEIVED SUBSTANTIALLY EXCEED THE ENGINEER'S ESTIMATE, AND DIRECT STAFF TO REVISE THE SPECIFICATIONS AND REBID THE PROJECT

**(1-D)** APPROVE THE ACQUISITION OF PERMANENT STREET EASEMENTS AND TEMPORARY CONSTRUCTION

EASEMENTS FROM AP 44-031-17 FOR THE AMOUNT OF \$1,425, 44-031-21 FOR THE AMOUNT OF \$2,500, AND 44-031-32 FOR THE AMOUNT OF \$910, AND AUTHORIZE THE DIRECTOR OF PUBLIC WORKS OR ASSISTANT DIRECTOR TO SIGN ALL DOCUMENTS NECESSARY TO COMPLETE THE ACQUISITION OF THE EASEMENTS

**145-241**

**6/21/05**

**(1-E)** APPROVE THE ACQUISITION OF A 68 SQUARE FOOT STREET EASEMENT FROM APN 416-103-14 LOCATED AT THE SOUTHWEST CORNER OF BLACKSTONE AND BULLARD AVENUES, AND APPROVE A 96 SQUARE FOOT TEMPORARY CONSTRUCTION AGREEMENT AT APN 416-182-01 LOCATED AT 5655 N. BLACKSTONE AVENUE

1. AUTHORIZE THE PUBLIC WORKS DIRECTOR TO (1) ACCEPT THE DEED OF EASEMENT FROM GUY GARDNER, INC., AND EXECUTE THE AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY AND COMPLETE THE ACQUISITION THROUGH ESCROW, AND (2) SIGN THE RIGHT OF ENTRY FOR CONSTRUCTION PURPOSES FROM ROBERT E. KEMP, ET AL.

**(1-F)** APPROVE THE PURCHASE OF A 8.3-ACRE (+/-) PARCEL OF LAND FROM RANCHO RIVINGTON AND RANCHO CREMA, CALIFORNIA LIMITED PARTNERSHIPS, FOR THE PRICE OF \$1,500,000, WITH AN INITIAL PAYMENT OF \$1,000,000 AND THE BALANCE OF \$500,000 TO BE PAID OVER A THREE YEAR PERIOD; AND AUTHORIZE THE PUBLIC WORKS DIRECTOR AND STAFF TO EXECUTE THE AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY, THE PROMISSORY NOTE AND OTHER TRANSACTION DOCUMENTS, ACCEPT THE GRANT DEED FOR THE PROPERTY, AND SUBMIT THE APPROPRIATE DOCUMENTS INTO ESCROW

**(1-G) RESOLUTION NO. 2005-222** - INTENT TO ANNEX FINAL TRACT NO. 5290 TO CFD NO. 2, ANNEXATION NO. 99, AND SETTING THE PUBLIC HEARING FOR JULY 26, 2005, AT 10:00 A.M.

**(1-H)** APPROVE THE AGREEMENT WITH BLAIR, CHURCH AND FLYNN CONSULTING ENGINEERS, INC., FOR PROFESSIONAL ENGINEERING SERVICES TO DESIGN AND PREPARE CONTRACT DOCUMENTS FOR THE PROPOSED SUGAR PINE TRAIL UNDER-CROSSING AT FRESNO STREET NORTH OF NEES IN THE AMOUNT OF \$82,500, AND AUTHORIZE THE CITY MANAGER OR DESIGNEE TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY

**(1-I)** CONSIDER MATTERS AND ADOPT RESOLUTIONS RELATING TO PROPOSED CFD NO. 2005-1 - THE RUNNING HORSE DEVELOPMENT

1. **RESOLUTION NO. 2005-223** - APPROVING THE FORM AND SUBSTANCE OF A DEPOSIT AND REIMBURSEMENT AGREEMENT, ACCEPTING A PETITION AND DETERMINING TO INITIATE AND CONDUCT PROCEEDINGS

2. **RESOLUTION NO. 2005-224** - APPROVING THE BOUNDARY MAP

3. **RESOLUTION NO. 2005-225** - INTENT TO ESTABLISH A CFD AND AUTHORIZE LEVY OF A SPECIAL TAX AND ISSUANCE OF SPECIAL TAX BONDS

4. **RESOLUTION NO. 2005-226** - DECLARING INTENTION TO INCUR BONDED INDEBTEDNESS

5. **RESOLUTION NO. 2005-227** - 85<sup>TH</sup> AMENDMENT TO AAR 204-209 APPROPRIATING \$125,000 TO FORM THE CFD FOR TENTATIVE TRACT NO. 5350 WHICH CORRESPONDS TO THE RUNNING HORSE DEVELOPMENT

**(1-K) RESOLUTION NO. 2005-228** - INTENT TO ANNEX FINAL TRACT NO. 5261 AS ANNEXATION NO. 98 TO CFD NO. 2 AND AUTHORIZE THE LEVY OF SPECIAL TAXES, AND SETTING THE PUBLIC HEARING FOR JULY 26, 2005, AT 10:05 A.M.

**(1-L) RESOLUTION NO. 2005-229** - 88<sup>TH</sup> AMENDMENT TO AAR 2004-209 APPROPRIATING \$300,000 IN GRANT FUNDS FROM THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

1. ACCEPTING A \$300,000 ECONOMIC DEVELOPMENT INITIATIVE SPECIAL PROJECT GRANT FROM HUD FOR RESIDENTIAL REHABILITATION IN THE JEFFERSON/LOWELL NEIGHBORHOOD AND APPROVING THE CITY'S PARTICIPATION IN THE PROGRAM

2. AUTHORIZING STAFF TO NEGOTIATE AND ENTER INTO A SUB-GRANTEE AGREEMENT WITH ONE BY ONE LEADERSHIP FOR IMPLEMENTATION OF THE PROJECT, SUBJECT TO PRIOR APPROVAL AS TO FORM BY THE CITY ATTORNEY'S OFFICE

**(1-M) RESOLUTION NO. 2005-230** - AMENDING SECTION 4.3 AND SECTION 8.3(B) OF THE CITY OF FRESNO FLEXIBLE BENEFITS PLAN

**(1-N)** AUTHORIZE THE CITY MANAGER TO EXECUTE THE FLEXIBLE BENEFITS ADMINISTRATION AGREEMENT AND BUSINESS ASSOCIATE AGREEMENT WITH HEALTHCOMP, THIRD PARTY ADMINISTRATORS

On motion of Councilmember Duncan, seconded by Councilmember Westerlund, duly carried, RESOLVED, the above entitled **CONSENT CALENDAR** hereby adopted, by the following vote:

Ayes : Boyajian, Calhoun, Duncan, Perea, Sterling, Westerlund, Dages  
 Noes : None  
 Absent : None

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**145-242**

**6/21/05**

**(9:00 A.M.) PUBLIC COMMENT - UNSCHEDULED COMMUNICATION:**

APPEARANCE BY DELORES AVITIA SPEAKING IN OPPOSITION TO THE TAKING OF HOME OWNERS' PROPERTY/HOMES FOR NEW SCHOOLS IN SOUTHEAST FRESNO

Appearance made; no action taken.

APPEARANCE BY TONY FARMER IN SUPPORT OF AN INDEPENDENT POLICE AUDITOR (IPA)

APPEARANCE BY REV. WALT PERRY, FRESNO METRO MINISTRY, IN SUPPORT OF AN IPA

Appearances made; no action taken.

APPEARANCE BY BARBARA HUNT REGARDING SUPPORT FOR THE POLICE DEPARTMENT, SUPPORT FOR THE MAYOR HAVING VETO AUTHORITY OVER GENERAL PLAN AMENDMENTS, AND CONCERNS WITH STREET SIGN DIRECTIONAL DESIGNATIONS AND OVERLAPPING OF BOUNDARIES

Appearance made; no action taken.

APPEARANCE BY ELLIE BLUESTEIN (**2 - 0**), REV. FLOYD HARRIS, JR., VICTOR MCLANE, DIANE CORBIN, CENTRAL CALIFORNIA CRIMINAL JUSTICE COMMITTEE (CCCJC) MEMBER, DIANE MARKS, (CCCJC) MEMBER, SUSANE MONA, LARRY MULLEN, MARK STOUT, AND PAUL BINION, 5159 E. PITT, ALL IN SUPPORT OF AN INDEPENDENT POLICE AUDITOR (IPA)

Appearances made; no action taken. Councilmember Sterling thanked everyone for their input and relative to the independent police auditor advised their comments would be made part of the budget hearing record.

**BUDGET HEARING DATE FOR THE REDEVELOPMENT AGENCY - COUNCILMEMBER CALHOUN**

Councilmember Calhoun questioned why there was a question mark after the RDA and when their budget would be heard, with City Clerk Klish stating she had not seen the publishing notice, Agency Chair Boyajian added the budget had to go before the HCDC before coming to Council, and City Attorney Montoy stating she believed the earliest Council could hear their budget was June 23<sup>rd</sup> and she would confirm that.

**(1-I) THE RUNNING HORSE DEVELOPMENT - COUNCILMEMBER STERLING**

To those in the audience for the matter Councilmember Sterling advised a correction was made to the staff report changing the hearing date from July 19<sup>th</sup> to the 26<sup>th</sup> and upon question staff confirmed the subject resolutions had been adopted.

**RECESS - 9:48 A.M. - 10:03 A.M.**

**(10:00 A.M.) HEARING ON CFD NO. 2, ANNEXATION NO. 94, FINAL TRACT MAP NO. 5215**

**1. RESOLUTION NO. 2005-231 - ANNEXING TERRITORY**

**2. RESOLUTION NO. 2005-232 - CALLING A SPECIAL MAILED BALLOT ELECTION**

**3. RESOLUTION NO. 2005-233 - DECLARING ELECTION RESULTS**

**4. BILL NO. B-64 - ORDINANCE NO. 2005-66 - LEVYING A SPECIAL TAX FOR THE PROPERTY TAX YEAR 2005-2006 AND FUTURE TAX YEARS**

President Dages announced the time had arrived to consider the issue and opened the hearing. Senior Engineering Technician

Paff gave an overview of the issue, all as contained in the staff report as submitted, recommended approval, and responded to questions of President Dages relative to landscaping along California Avenue.

Barbara Hunt, 2475 S. Walnut, presented questions relative to clean-up of California and Orange Avenues.

Upon call, no one else wished to be heard and President Dages closed the hearing.

**145-243**

**6/21/05**

On motion of President Dages, seconded by Councilmember Duncan, duly carried, RESOLVED, the above entitled Resolution Nos. 2005-231, 2005-232 and 2005-233 hereby adopted, and the above entitled Bill No. B-64 adopted as Ordinance No. 2005-66, by the following vote:

Ayes :	Boyajian, Calhoun, Duncan, Perea, Sterling, Westerlund, Dages
Noes :	None
Absent :	None

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**(10:05 A.M.) HEARING ON CFD NO. 2, ANNEXATION NO. 95, FINAL TRACT MAP NO. 5196**

- 1. RESOLUTION NO. 2005-234 - ANNEXING TERRITORY**
- 2. RESOLUTION NO. 2005-235 - CALLING A SPECIAL MAILED BALLOT ELECTION**
- 3. RESOLUTION NO. 2005-236 - DECLARING ELECTION RESULTS**
- 4. BILL NO. B-65 - ORDINANCE NO. 2005-67 - LEVYING A SPECIAL TAX FOR THE PROPERTY TAX YEAR 2005-2006 AND FUTURE TAX YEARS**

President Dages announced the time had arrived to consider the issue and opened the hearing. Senior Engineering Technician Paff gave an overview of the issue, all as contained in the staff report as submitted, and recommended approval.

Barbara Hunt, 2475 S. Walnut, presented questions relative to who oversees the funds, with President Dages responding and clarifying issues.

Upon call, no one else wished to be heard and President Dages closed the hearing.

On motion of President Dages, seconded by Councilmember Perea, duly carried, RESOLVED, the above entitled Resolution Nos. 2005-234, 2005-235 and 2005-236 hereby adopted, and the above entitled Bill No. B-65 adopted as Ordinance No. 2005-67, by the following vote:

Ayes :	Boyajian, Calhoun, Duncan, Perea, Sterling, Westerlund, Dages
Noes :	None
Absent :	None

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**(10:10 A.M.) HEARING ON CFD NO. 2, ANNEXATION NO. 96, FINAL TRACT MAP NO. 5210**

- 1. RESOLUTION NO. 2005-237 - ANNEXING TERRITORY**
- 2. RESOLUTION NO. 2005-238 - CALLING A SPECIAL MAILED BALLOT ELECTION**
- 3. RESOLUTION NO. 2005-239 - DECLARING ELECTION RESULTS**
- 4. BILL NO. B-66 - ORDINANCE NO. 2005-68 - LEVYING A SPECIAL TAX FOR THE PROPERTY TAX YEAR 2005-2006 AND FUTURE TAX YEARS**

President Dages announced the time had arrived to consider the issue and opened the hearing. Senior Engineering Technician Paff gave an overview of the issue, all as contained in the staff report as submitted, and recommended approval.

Barbara Hunt, 2475 S. Walnut, presented questions relative to how long home owners have to pay the tax and if they have input on type of landscaping installed.

Upon call, no one else wished to be heard and President Dages closed the hearing.

On motion of President Dages, seconded by Councilmember Duncan, duly carried, RESOLVED, the above entitled Resolution Nos. 2005-237, 2005-238 and 2005-239 hereby adopted, and the above entitled Bill No. B-66 adopted as Ordinance No. 2005-68, by the following vote:

**145-244**

**6/21/05**

Ayes : Boyajian, Calhoun, Duncan, Perea, Sterling, Westerlund, Dages  
 Noes : None  
 Absent : None

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**(10:15 A.M.) HEARING ON CFD NO. 2, ANNEXATION NO. 97, FINAL TRACT MAP NO. 5210**

**1. RESOLUTION NO. 2005-240 - ANNEXING TERRITORY**

**2. RESOLUTION NO. 2005-241 - CALLING A SPECIAL MAILED BALLOT ELECTION**

**3. RESOLUTION NO. 2005-242 - DECLARING ELECTION RESULTS**

**4. BILL NO. B-67 - ORDINANCE NO. 2005-69 - LEVYING A SPECIAL TAX FOR THE PROPERTY TAX YEAR 2005-2006 AND FUTURE TAX YEARS**

President Dages announced the time had arrived to consider the issue and opened the hearing. Senior Engineering Technician Paff gave an overview of the issue, all as contained in the staff report as submitted, and recommended approval.

Barbara Hunt, 2475 S. Walnut, presented questions relative to how long home owners have to pay the tax and if they have input on type of landscaping.

Upon call, no one else wished to be heard and President Dages closed the hearing.

On motion of President Dages, seconded by Councilmember Duncan, duly carried, RESOLVED, the above entitled Resolution Nos. 2005-240, 2005-241 and 2005-242 hereby adopted, and the above entitled Bill No. B-67 adopted as Ordinance No. 2005-69, by the following vote:

Ayes : Boyajian, Calhoun, Duncan, Perea, Sterling, Westerlund, Dages  
 Noes : None  
 Absent : None

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City Attorney Montoy advised Council would go into closed session immediately after the break and announced the closed session items.

**RECESS - 10:18 A.M. - 11:00 A.M.**

**(11:00 A.M.) CLOSED SESSION:**

**(A) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - CASE NAMES:**

**1. ALEX CHAMPION V. COF**

**2. JOAN DALGETY AND JACOB R. SMITH V. COF; DONNA HOFFMAN**

**3. COF V. MADERA COUNTY BOARD OF SUPERVISORS; COUNTY OF MADERA**

**(B) CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION - SIGNIFICANT EXPOSURE TO LITIGATION:**  
**COF V. U.S. ARMY CORPS OF ENGINEERS AND THE BOEING COMPANY, INC.**

The City Council met in closed session in Room 2125 to consider the above matters and recessed for lunch thereafter.

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**LUNCH RECESS - 12:12 P.M. - 2:01 P.M.****(2:00 P.M. #1) CONTESTED CONSENT CALENDAR**

**(1-C) AWARD A REQUIREMENTS CONTRACT TO WEST COAST ARBORISTS, INC. FOR MAINTENANCE OF THE STREET TREE COMPONENT OF THE MUNICIPAL FOREST (REBID)**

**145-245****6/21/05**

General Services Director Nerland and City Attorney Montoy responded to questions and comments of Councilmember Calhoun relative to why bids were rejected when the matter was previously before Council, the process undertaken after the bids rejected and how this recommendation came about, the appeal that was filed late yesterday and why Council was not advised of the appeal this morning when the debate occurred on whether or not to keep the item on the agenda, and if staff was recommending the matter be held over one week because of the appeal or some other reason. Councilmember Boyajian began asking questions about the two bids West Coast Arborists submitted whereupon City Manager Souza recommended the merits of the RFP and numbers not be discussed in light of the appeal and added had he known of the appeal this morning discussion would have gone in a different direction and apologized for any inconvenience that caused.

At the recommendation of staff and by Council consensus the matter was laid over one week.

**(1-J) CONSIDER MATTERS AND ADOPT RESOLUTIONS RELATING TO LANDSCAPING AND LIGHTING MAINTENANCE DISTRICT (LLMD) NO. 1**

**1. RESOLUTION NO. 2005-243 - INITIATING PROCEEDINGS FOR THE ANNUAL LEVY OF ASSESSMENT**

**2. RESOLUTION NO. 2005-244 - INTENTION TO LEVY AND COLLECT THE ANNUAL ASSESSMENT**

**(3 - 0)** At the request and upon questions of Councilmember Calhoun, Senior Engineering Technician Paff and Public Works Director Healey explained what was at issue this date, purpose of LLMDs, when LLMDs were first established, if costs accelerate to meet cost of living increases, if costs paid by homeowners was not the true maintenance cost, why staff was recommending subsidizing those who are not paying their fair share for the services for another year, if staff will inform the public there will be a decrease in service, why an increase is not being requested this date rather than business as usual, and request for staff to provide a spreadsheet, in addition to their report within 120, on LLMDs and CFDs containing current fees, what the true cost should be and an explanation of the gap and what staff is doing about the gap.

Councilmember Westerlund made a motion to approve staff's recommendation and City Manager Souza clarified by law the city did not have the authority to raise rates as the amount was locked in when the district was established.

Barbara Hunt, 2485 S. Walnut, spoke in support of the issue.

On motion of Councilmember Westerlund, seconded by Councilmember Duncan, duly carried, RESOLVED, the above entitled Resolution Nos. 2005-243 and 2005-244 hereby adopted, by the following vote:

Ayes :	Boyajian, Calhoun, Duncan, Perea, Sterling, Westerlund, Dages
Noes :	None
Absent :	None

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**REQUEST TO SCHEDULE A CLOSED SESSION FOR THURSDAY, JUNE 23, 2005**

City Attorney Montoy requested a closed session on the Howard Jarvis case be scheduled prior the 1:30 p.m. budget hearing and by Council consensus a closed session was set for June 23<sup>rd</sup> at 1:00 p.m.

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**RECESS - 2:22 P.M. - 2:31 P.M.**

**(2:30 P.M. #1) HEARING REGARDING THE DRAFT FY 2006 ANNUAL ACTION PLAN TO THE U.S. DEPARTMENT OF**



HOUSING AND URBAN DEVELOPMENT (HUD) FOR USE OF COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG), HOME INVESTMENT PARTNERSHIPS (HOME), EMERGENCY SHELTER GRANT (ESG), AND AMERICAN DREAM DOWNPAYMENT INITIATIVE (ADDI) PROGRAM FUNDS, AND AUTHORIZING HT CITY MANAGER TO SIGN ALL IMPLEMENTING DOCUMENTS REQUIRED BY HUD

President Dages announced the time had arrived to consider the issue and opened the hearing. P & D Management Analyst Smith gave an overview of the issue, all as contained in the staff report as submitted, and recommended Council receive comments from the public on the draft Action Plan.

145-246

6/21/05

Speaking to the issue, requesting funding for their organization, or requesting additional funding than that recommended, were: Doug Jensen, Rotary Club for the Boys & Girls Clubs; Mario Ordaz, Fresno Pacific University student, support for the Boys Club; Sarah Reyes, Community Food Bank Executive Director; Ken Wittner, Community Food Bank Board President; Marta DelaTorre, Goodwill Gap Project; Jeff Garner, Catholic Charities; Pam Kallsen, Executive Director, Marjaree Mason Center; Joseph Perry, Executive Director, Boys 2 Men-Girls 2 Women Foundation; Craig Sharton, Director, Downtown Community Development Corp.; Gordon Dohoho, Care Fresno; Paul McLain, Local Conservation Corps (LCC) (**4 - 0**); Russell Hoeltzler, Valley Center for the Blind; Ray Wilder, support for Valley Center for the Blind; M.J. Borelli, Fair Housing Service; Barbara Hunt, 2475 S. Walnut, support for the organizations and all they do for the community; Cara Pierce, By Design Financial Solutions; and Lydia Lopez, Acorn Housing.

Upon call, no one else wished to be heard and President Dages closed the public hearing.

Councilmember Calhoun spoke to the owner-occupied housing rehabilitation program budgeted for \$1 million and the history of how Council decided to partner with the Housing Authority due to the city's inability to spend the funds, and with the \$1 million proposed stated it might be time to bring the program back in-house noting funds were being administered very well by staff and questioned if it was time to consider bringing all the funds back to the planning & development department.

At this point Councilmember Westerlund noted the people who spoke to funding for their organizations may want to leave and stated he wanted to thank them, whereupon Councilmember Calhoun concurred and stated he would hold back on his comments and speak later. Councilmember Westerlund thanked everyone for their comments, and stated no matter what is decided these were hard choices as all the organizations were wonderful organizations and thanked them for their presentations and works efforts.

Councilmember Boyajian stated looked like the \$500,000 in social service funding had been shifted to the parks and recreation department, stated it looked like three basic groups were being funded and expressed concern that out of twenty-five organizations some were getting nothing, stressed some groups were excellent and were meant for CDBG money which was to build up poor neighborhoods, assist with employment, and help acquire housing, and made a motion to take the \$500,000 out of the parks & recreation department and put the money back in the social service fund where it had previously been. City Manager Souza clarified the funds in parks & recreation that had historically been social service funding was general fund money and not CDBG, with Councilmember Boyajian stressing they were the funds that had previously been given to agencies. Upon question of President Dages, Councilmember Boyajian made another motion to move the \$236,000 for the enrichment program to the social services fund stating that was also CDBG money.

**MOTION - Boyajian/Calhoun** - Move \$236,000 from the parks and recreation Enrichment Program to Social Service Funding.

Councilmember Calhoun clarified his second applied only to the \$236,500 of CDBG funds and not the \$500,000 of general fund money. Upon question of Councilmember Westerlund, President Dages clarified department motions can be made at any time throughout budget hearings even though it is not the subject matter.

Upon call, Councilmember Boyajian's motion to move the \$500,000 died for lack of a second.

Mr. Souza responded to comments made relative to projects, rankings and funding. Councilmember Sterling stated the problem is when competitive bid is taken out and explained, spoke to organizations' confusion with the current process, and stated all organizations were deserving. Relative to the \$236,500 motion, Councilmember Duncan stated he appreciated the intent of the motion but questioned if it was legal and if CDBG *must* be used within CDBG areas, with City Attorney Montoy stating there were very specific limitations on how CDBG money could be spent and she would review the issue with staff and let Council know if it was permissible when Council deliberates.

**DELETION OF MOTION #10** (Dages/Boyajian) - Delete the Rental Rehabilitation Pilot Program and re-appropriate the \$750,000 to

the Housing Authority Single Family Rehabilitation Program

President Dages stated his concerns about money going to a sophisticated investor to fix up rental units had been addressed and rules would be created with this new program and explained and deleted his motion from the list.

Councilmember Calhoun continued where he left off earlier and questioned if it made more sense to bring the \$1 million in housing funds back to planning and development to administer versus contracting out, with Planning & Development Director Yovino responding **(5 - 0)** and clarifying staff did not shut the door on the city and explained and spoke to the city's proposal to re-enter the housing rehab arena. Councilmember Calhoun stated his personal philosophy was to have as many things as possible directly under the city manager and explained and stated he also shared the philosophy of putting a lot of the city's resources into rentals and explained.

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Councilmember Boyajian spoke to how rehabilitation of homes helps neighborhoods, to all that has been accomplished in that area, to the tremendous job the Housing Authority has done, to the Housing Task Force and their contact with private businesses to find out what is being offered in the city so there is no redundancy, and to the huge demand for housing rehabilitation in districts 3, 4, 5 and 7.

**MOTION - Boyajian/Sterling** - Move \$500,000 of HOME funding from the First Time Home Buyers Assistance program to the Housing Authority Rental Rehabilitation program for a total of \$1.5 million, and housing staff directed to meet with the Housing Authority for the purpose of jointly developing a monitoring plan that complies with the requirements of the HOME program.

Upon question of Councilmember Westerlund, Housing Manager Sigala clarified \$2.5 million was in the Home Buyers Assistance fund. Discussion ensued and further clarifications were made by Mr. Yovino.

Councilmember Calhoun expressed concern with the above motion and stated he was very leery of it stressing the City drove the rental rehabilitation agenda -- not the Housing Authority, stated he was hearing Housing Authority Director Stacey speaking, and stated an important policy decision on who spends the money and who monitors it was before Council. Councilmember Duncan stated the rental rehab and first time home buyers programs were both good programs and spoke in opposition to taking funds from the first time home buyers program citing the great market and great pay offs that would be realized and added the time to shift funds into rental rehab is when the market softens. Councilmember Boyajian stated he was not speaking for Mr. Stacy and elaborated further and reiterated there was a huge demand for rental rehabilitation. Councilmembers Perea and Sterling spoke briefly to programs and commended staff. There was no further discussion.

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**(3:00 P.M.) HEARING TO CONSIDER ADOPTION OF A RESOLUTION OF PUBLIC USE AND NECESSITY FOR THE ACQUISITION OF FEE TITLE FOR THE DEVELOPMENT OF PUMP STATION 61A ON THE APN 471-070-05 OWNED BY HANOIANS, INC., PROPERTY LOCATED ON THE SOUTH SIDE OF BUTLER BETWEEN CEDAR AND CHANCE AVENUES (CONTINUE TO JUNE 28, 2005, AT 2:30 P.M.)**

President Dages announced the hearing, noted the request to continue, and a motion and second was made to continue the hearing.

On motion of Councilmember Duncan, seconded by Councilmember Perea, duly carried, **RESOLVED**, the above entitled hearing continued to June 28, 2005, at 2:30 p.m., by the following vote:

Ayes :	Boyajian, Calhoun, Duncan, Perea, Sterling, Westerlund, Dages
Noes :	None
Absent :	None

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**(2:30 P.M. #2) CONTINUED HEARING ON THE FY 2006 CITY OF FRESNO BUDGET**

President Dages announced the time had arrived to consider the issue and opened the hearing.

**(B) DISCUSSION/ACTION ON FY 2006 BUDGET AND RELATED ITEMS:**

**1. DISCUSSION AND ACTION AS REQUIRED REGARDING THE IMPACT OF DECISION REGARDING IN-LIEU FEES ON**

## THE FY 2006 BUDGET

City Attorney Montoy reviewed the issue and explained the impacts to the general fund and the City and to the impact on the utilities stating there were two distinct impacts here, and City Manager Souza reviewed the Mayor's contingency plan for the \$4.2 million, all as submitted in his letter to the Citizens of Fresno and the City Council **(6 - 0)**.

Barbara Hunt, 2475 S. Walnut, spoke in support of the Courts' decisions and stated the city of Fresno stole people's money.

Councilmember Sterling spoke to the contingency plan stating some proposals were not bad, upon her question Ms. Montoy stated it was legally permissible for the city to charge departments fees as long as they could justify the cost, and spoke further to the issue and proposal made a motion to fill the in-lieu gap.

**MOTION - Sterling/Boyajian** - Fill the \$4.2 million "In-Lieu" gap as follows:

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\$600,000 for deferment of ISD replacement program  
 \$500,000 Eliminate UHP match funding  
 \$240,000 Adjustment to maintain the GF reserve at 5%  
 \$222,800 Delay opening of Fire Station 15  
 \$70,000 Outside Legal Fees  
 \$10,000 Membership Dues  
 \$1.8 Million from purchase of Kronos/Cognos Software  
 \$757,200 Reduction in advance payment to the Retirement Fund

Mr. Souza clarified the \$1.8 million for Kronos/Cognos was not a revenue source in the general fund and explained and further clarified issues upon question of President Dages. Councilmember Sterling stated he would leave her motion as stated adding she believed \$1.8 million could be found in the general fund budget.

Councilmember Duncan congratulated staff, the city manager and Mayor on the proposal stating it was rational and reasonable, stated everyone would have to pitch in and advised he directed staff to use his district 6 infrastructure funds (\$50,000) to fill the gap in the Woodward Park Capital fund so the park would not be affected, stated the \$1.8 million in Councilmember Sterling's motion was very scary and added there was not a lot left to cut, encouraged Council to support the proposal stating it was logical, and apologized to staff for having to work on Father's Day and made a motion to approve the contingency plan as presented.

Councilmember Calhoun stated staff did a great job in finding \$4.2 without laying anyone off and keeping the new enhancements but stated he felt the enhancements should have been eliminated, a horrible time would be had in 2007, stated if not for the robust economy the city could have really been in trouble, and stated he did not think the city was being realistic, elaborating on his comments throughout. Councilmember Perea complimented the Mayor and staff stating he felt the plan was fairly reasonable, advised he did not support reducing the tree-trimming and questioned what the impact would be (with Public Works Director Healey responding), stated he would work with staff to find \$148,400 from other areas, and upon his question Mr. Souza explained how the total \$8.4 million hit was dealt with. Councilmember Westerlund congratulated staff stating he was impressed with the proposal and added hopefully the robust growth would continue.

Mr. Souza stated he did not want to leave anyone with the impression that this was easy and painless and explained, and responded to questions and/or comments of Councilmembers Boyajian and Sterling relative to whether \$500,000 was taken from ISD for the Kronos/Cognos purchase, amount spent on Imagine 21 training, concerns with the Measure C issue and funds proposed for parks & recreation education programs, and how many years the city would have to deal with the \$8.4 million hit.

Councilmember Duncan spoke to general fund revenues and projections and questioned if could modify his motion with the added caveat that if general fund revenues exceed projections the first \$148,400 would be used to fully fund the tree-trimming program, with Mr. Souza stating he was not sure how staff could bind a future council decision and stated that would be placed into consideration. Upon further question, Mr. Souza stated staff would bring to Council a report on revenues for the first quarter for consideration.

There was no further discussion.

**(A) HEARING ON DEPARTMENT BUDGETS** *(in following general order as time permits):*  
 Public Works - Capital Projects (conclusion)

Parks & Recreation (second half/conclusion)  
 Convention Center  
 Personnel Department  
 Transportation Department - FAX  
 Economic Development Department  
 General City Purpose  
 CDBG  
 Redevelopment Agency

### **PARKS AND RECREATION:**

Linda Guerrero, Palm Lakes condominium resident, stated she was concerned with the future of the golf course and her property values dropping, and requested the city keep Palm Lakes as a golf course.

Councilmember Westerlund responded to concerns and advised of the efforts he has undertaken and requested Councilmember Calhoun, as the maker of the motion to defund the Palm Lakes golf course project, to give 90 days to look at options and Assistant City

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Manager Ruiz adding staff did want time to explore all options. Councilmember Calhoun stated his motion was for the city to stop subsidizing the golf course and he was glad his motion caught some attention and added he was not asking the city to close the golf course overnight. Brief discussion ensued with Councilmember Westerlund and Parks & Recreation Director Cooper speaking to the issue.

Councilmember Calhoun stated Council needed to think about whether the City should be enhancing educational programs in an amount close to \$1 million and added he did not see the programs as recreational and elaborated, with Mr. Cooper and City Manager Souza responding and clarifying issues. Councilmember Duncan stated his support for funding the programs and helping Fresno Unified as they were trying hard, stressed the proposed funding was not enough, and spoke to the importance of helping children and failure statistics and facts.

Mr. Ruiz and Mr. Cooper responded to questions of Councilmember Sterling relative to Eaton Plaza, the SPCA contract including complaints from people that the SPCA does not go out and catch animals and if the contract provision could be strengthened, and concern with the elimination of \$350,000 for the Community Investment Grant and the millions of leveraged dollars that will be lost.

**MOTION - Sterling/Boyajian** - Organizations funded under Community Investment Program be de-funded and funds be re-instituted under a competitive bidding format as operated in FY 2005.

Mr. Ruiz clarified \$100,000 for the United Way Grant Writer was included in the budget and spoke to the need to focus on specific kinds of programs. Councilmember Sterling continued and spoke to future challenges, the transition of the Zoo and request for information, with Mr. Souza responding.

Councilmember Perea spoke to his support for after-school programs and the increased funding, advised of compliments he has received on Lion's Skate Park and questioned if there were plans for a BMX park, and presented questions relative to Community Investment funds, with Mr. Cooper and Mr. Souza responding throughout.

Councilmember Boyajian spoke to a letter he received from Fresno Unified on their bold attempt with programs, to parks employees not being educators and not having teaching expertise, and to Council's responsibility to employees who are temporary making inadequate wages and having no benefits. Councilmember Boyajian continued and spoke to carryover funds, his concerns with the Sierra Hospital senior citizen center (**8 - 0**) not being completed yet funding is being proposed for the Roosevelt High center, made a motion to allocate the funds for the Roosevelt High School center to the Sierra Hospital senior center (which motion received no second), and presented questions relative to the grant writer program and costs allocated for consultants, with Mr. Cooper and M.A. Milavich responding.

Councilmember Westerlund presented questions relative to the Zoo transition, funds budgeted for restroom checks, recreation leaders at school sites, city steward program, and the community investment program and Councilmember Sterling's motion, with Mr. Cooper and Councilmember Sterling responding.

President Dages spoke to the FUSD mobile medical unit, how successful it has been, how it would have to be shut down, and to an offer by Granville Homes to contribute \$80,000 to keep it going one more year.

**MOTION** - **Dages/Perea** - Allocate \$30,000 for the FUSD Mobile Medical Unit (in addition to the \$80,000 contribution by Granville Homes).

Councilmember Duncan suggested the Fresno Teachers Association match city funds, Mr. Cooper advised staff was currently looking at funding options for the unit, and Councilmember Westerlund suggesting fund-raising.

There was no further discussion and the budget hearing was continued to June 22, 2005, at 1:30 p.m.

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**ADJOURNMENT**

There being no further business to bring before the Council, the hour of 6:43 p.m. having arrived and hearing no objections, President Dages declared the meeting adjourned.

**Approved** on the \_\_\_\_28th\_\_\_\_day of \_\_\_\_\_June\_\_\_\_\_, 2005.

\_\_\_\_\_/s/\_\_\_\_\_  
Mike Dages, Council President

ATTEST:\_\_\_\_\_/s/\_\_\_\_\_  
Yolanda Salazar, Assistant City Clerk